

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of invention as shown in F 30-45 in the reply filed on 1/13/2010 is acknowledged. However, Figs. 30-45 present multiple sub-species, which are structurally different to one another. For the purpose of further the prosecution, sub-species as shown in Figs. 30-34 is selected. Claims 1, 4-7, 38-39, 41-42 read on sub-species as shown in Figs. 30-34 are examined. Claims 2-3, 9-30, and 40 directed to other sub-species are withdrawn from further examination.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4-7, 38-39, 41-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Briggs et al.-7,344,507 (Briggs).

As to claims 1, 4-7, 38-39, 41-42, Briggs (F 93-96; C 63, L 48 to C 64, L 67) discloses a body sampling system comprising bare penetrating members / lancets 183 coupled together by tape / belt 807 including upper-tape 809 and lower-tape 811 to cover the tips of penetrating members / lancets 183 and define a sterile enclosure for the tips, cogs 820 &/ 826' as a penetrating member release device for piercing holes 821 &/ holes 825 respectively of the sterile enclosure defined by tape 809 &/ 811 to release penetrating members 183 from the sterile enclosure defined by tape 809 &/ 811 and to move penetrating members / lancets 183 to

engage coupler 713 of a penetrating member driver 179, and lancet guide wheel 826 (F 96) as a penetrating unloading device for removing a used penetrating member from the penetrating member driver 713 substantially as recited in the claims.

### ***Response to Amendment***

After non-final rejection (paper 4/13/2010), the Applicant claimed (paper 8/4/2010) that the present application is claimed as Continuation In Part of application 10/127,395 (now US Pat. 7,025,774) to overcome the rejection in the non-final rejection (paper 4/13/2010), and the delay in this claim of priority was unintentional. The citation of the application 10/127,395 as a co-pending in the specification of the present invention was provided as an evident that this application is a continuation in part of the application 10/127,395 (page 5, paper 8/4/2010). This appears not a very good reason for a delay from the filing date of the present invention, which was 6/30/2005, to the date of the petition, which was 8/4/2010.

In addition, the elected species of the present application as shown in F 30-34 were not shown in the application 10/127,395, now published as US Pat. 7,025,774.

At least, for the above reason, the rejection of the elected species as shown in F 30-34 is still effective.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/  
Primary Examiner, Art Unit 3773